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October 1, 2020

BY ECF

The Honorable Sarah Netburn
United States Magistrate Judge
Thurgood Marshall
United States Courthouse
40 Foley Square
New York, NY 10007

Re: United States v. Craig Zabala, 20 MAG 10194

Dear Judge Netburn:

I represent Defendant Craig Zabala in the above-referenced matter. I am writing to request a modification to Mr. Zabala's bail conditions, which the government does not oppose.

On September 24, 2020, as part of his bail conditions, the Court ordered that Mr. Zabala sign a personal recognizance bond of \$1,000,000 ("PRB") co-signed by two financially responsible persons ("FRP") and secured by \$100,000 in cash or property. Dkt. Entry 5. After hearing argument from the parties as to whether one or two co-signers was necessary, the Court ordered that the bail conditions include a requirement of two FRP co-signers, but advised the undersigned defense counsel to return to Your Honor within a week if a second FRP could not be located.¹

Over the past week, we were successful both in identifying one FRP who has co-signed the PRB (Mr. Zabala's brother) and in securing the bond with \$100,000 in property or cash (\$50,000 in a cash bond from a friend and a \$50,000 lien on Mr. Zabala's real property in California), all in a manner acceptable to the government. We also approached Mr. Zabala's sister, cousin, girlfriend, and friend, all of whom are senior citizens who expressed support for Mr. Zabala but who stated that their personal circumstances prevented them from signing the bond. For instance, Mr. Zabala's sister is preparing to take custody of a child with special needs.

¹ The other bail conditions included the signing of the PRB by Mr. Zabala; restricted travel to the Eastern and Southern Districts of New York; surrender of travel documents and no new applications; and pretrial supervision as directed by Pretrial Services. All of those conditions have been satisfied in the past week.

Mr. Zabala's parents have passed away, he has no children, and he has no other close family or friends who would be in a position to sign the bond.

Mr. Zabala respectfully requests that the Court modify his bail conditions to add GPS monitoring through Pretrial Services as an additional condition of release in lieu of a second FRP co-signer to the PRB. There is precedent for this type of modification. For instance, in *United States v. Rinfret*, 19 MAG 6049 (S.D.N.Y.) (Dkt. Entry 5), the defendant was initially ordered to have three FRPs co-sign a \$1 million bond and to post real property as security for the bond. When the defendant could not fulfill any of those conditions, the Court modified the conditions to require no FRPs and no posting of real property, but added GPS monitoring by Pretrial Services as a condition of release. *Id.*, Dkt. Entry 9. That ruling was consistent with 18 U.S.C. § 3142(c)(2), which states that "[t]he judicial officer may not impose a financial condition that results in the pretrial detention of the person." In this case, there is far more security in place to secure Mr. Zabala's appearance than was true in *Rinfret*, but the GPS monitoring would add another level of protection in addition to the PRB and security and other bail conditions described above.

I have conferred with Mr. Naftalis, the Assistant U.S. Attorney in charge of the prosecution, who advised me that the government does not oppose this request. Thank you for your consideration of this request.

Respectfully submitted,

/s/ Michael Kelly

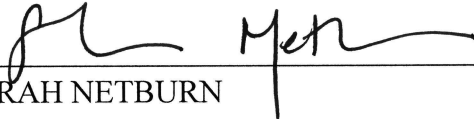
Michael Kelly

cc: Joshua Naftalis, AUSA

Application GRANTED in part and DENIED in part. The Court does not believe that location monitoring through a GPS device is the least restrictive condition necessary to supervise the Defendant. The Court requests that, in lieu of a second financially responsible co-signer, the Defendant's domestic partner sign the bond for moral suasion.

SO ORDERED.

October 2, 2020
New York, New York


SARAH NETBURN
United States Magistrate Judge